

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

IN RE: MICHAEL E. BRITTON, Debtor

**CHAPTER 13
CASE NO. 16-50502-KMS**

AFFIDAVIT OF DEFAULT

STATE OF MISSISSIPPI

COUNTY OF MADISON

PERSONALLY APPEARED before me, the undersigned authority in and for the jurisdiction aforesaid, Thomas R. Hudson, who, being by me first duly sworn, stated on oath the following:

1. I, Thomas R. Hudson, am an adult resident citizen of Madison County, Mississippi. I am General Counsel and Executive Vice President of BankPlus and am fully competent to make this affidavit. This affidavit is made on my own personal knowledge and I am familiar with the matters and facts set forth herein.
2. That the Court has jurisdiction over this proceeding and the parties herein.
3. On December 5, 2016, this Court entered an *Agreed Order on Motion (1) Relief from the Automatic Stay, and (2) Abandonment of Property of the Estate* [Dkt. No. 149] in the above-captioned bankruptcy case, pertaining to collateral held by BankPlus.
4. The relevant portion of the second page of said Order reads as follows:
“IT IS, FURTHER ORDERED AND ADJUDGED that, should the Debtor become more than 30 days delinquent in Chapter 13 Plan Payments to BankPlus, calculated from the first delinquent month, the automatic stay under 11 U.S.C. §362 will automatically lift, terminate, and be annulled—without further Court order—with respect to BankPlus and the Real-Property Collateral, as the term Real-Property Collateral is defined in the Motion and described in the attached Exhibit “A,” and the Real-Property Collateral will thereby be automatically abandoned from the estate, so as to allow BankPlus to enforce its liens and interests in the Real-Property Collateral, and to exercise any and all of BankPlus’s rights and/or remedies relating to the Real-Property Collateral, including but not necessarily limited to: (i) repossessing, foreclosing, or otherwise realizing upon the Real-Property Collateral; and (ii) taking any and all other actions consistent with repossession and/or foreclosure of the Real-Property Collateral to either maintain or liquidate the Real-Property Collateral.”

5. On May 10, 2018, BankPlus mailed written notice of default to Debtor and the Debtor's attorney. A copy of said letter dated May 10, 2018, is attached hereto as Exhibit "A."
6. Accordingly, pursuant to the Court's Agreed Order dated December 5, 2016 [Dkt. No. 149], the Automatic Stay terminated as of May 10, 2018, as to BankPlus and its collateral, without further order of the Court.

And further affiant sayeth not.

Thomas R. Hudson

Thomas R. Hudson

SWORN TO AND SUBSCRIBED BEFORE ME, this 11th day of May, 2018.

Denise K. Strobel

NOTARY PUBLIC

My commission expires:

8/30/2019



Thomas R. Hudson (MSB#2846)
Attorney for BankPlus
400 Concourse, Suite 200
1068 Highland Colony Parkway
Ridgeland, MS 39157
Telephone: (601) 898-4840
Facsimile: (601) 510-9067
Email: TomHudson@BankPlus.net

CERTIFICATE OF SERVICE

I, the undersigned Thomas R. Hudson, do hereby certify that I have this day filed on behalf of BankPlus the following document, Affidavit of Default, of which a true and correct copy thereof is affixed, by electronic filing, and served via electronic mail upon the following:

David L. Lord, Attorney for Debtor, at lordlawfirm2@bellsouth.net

J. C. Bell, Chapter 13 Trustee, at mdg@jcbell.net

Samuel J. Duncan, Counsel to Chapter 13 Trustee, at sduncan@jcbell.net

United States Trustee, at USTPRegion05.JA.ECF@usdoj.gov

and, via United States Mail, postage prepaid, upon the following:

Michael E. Britton
18 Clara School Road
Waynesboro, MS 39367

Dated this 11th day of May, 2018.



Thomas R. Hudson

EXHIBIT "A"

May 10, 2018

Via Regular Mail & Certified Mail
Return Receipt Requested

Michael E. Britton
18 Clara School Road
Waynesboro, MS 39367

THOMAS R. HUDSON
Executive Vice President &
General Counsel
(MSB 2846)

Michael E. Britton
Post Office Box 917
Waynesboro, MS 39367

Re: Michael E. Britton, Debtor
Chapter 13 Case Number 16-50502-kms
United States Bankruptcy Court Southern District of Mississippi
Notice of Default of BankPlus Loan Number Ending 9501



Dear Mr. Britton:

By Agreed Order entered December 5, 2016 (the "Order"), a copy of which is enclosed for your reference, you were ordered to pay the indebtedness owed to BankPlus. In the event that you become delinquent on your payments, the Order stated that,

should the Debtor become more than 30 days delinquent in Chapter 13 Plan Payments to BankPlus, calculated from the first day of the first delinquent month, the automatic stay under 11 U.S.C. § 362 will automatically lift, terminate, and be annulled—without further Court order—with respect to BankPlus and the Real-Property Collateral, as the term Real-Property Collateral is defined in the Motion and described in the attached Exhibit "A," and the Real-Property Collateral will thereby be automatically abandoned from the estate, so as to allow BankPlus to enforce its liens and interests in the Real-Property Collateral, and to exercise any and all of BankPlus's rights and/or remedies relating to the Real-Property Collateral, including but not necessarily limited to: (i) repossessing, foreclosing, or otherwise realizing upon the Real-Property Collateral; and (ii) taking any and all other actions consistent with repossession and/or foreclosure of the Real-Property Collateral to either maintain or liquidate the Real-Property Collateral.

1068 HIGHLAND COLONY PKWY
RIDGELAND, MS 39157

TEL 601.898.4840

FAX 601.510.9067

E MAIL TomHudson@BankPlus.net

{00094499.DOCX v.1 }

MEMBER FDIC

Michael E. Britton
May 10, 2018
Page 2

As of May 10, 2018, your loan number ending 9501 ("Note #9501") is 72 days delinquent, having a past due balance of \$5,158.86.

Accordingly, this letter confirms that the automatic stay has terminated without further order of the Court as to Note #9501 and the related collateral pursuant to the Bankruptcy Court's Agreed Order of December 5, 2016.

Sincerely,

BankPlus

By: Thomas R. Hudson
Thomas R. Hudson
Executive Vice President & General Counsel

TRH/dks

Enclosures

cc: Randy Sullivan

David L. Lord, Attorney for Debtor (via U.S. Mail)



16-50502-KMS Dkt 149 Filed 12/05/16 Entered 12/05/16 13:13:34 Page 1 of 4



SO ORDERED,

A handwritten signature in black ink, appearing to read "Katharine M. Samson".

Judge Katharine M. Samson
United States Bankruptcy Judge
Date Signed: December 5, 2016

The Order of the Court is set forth below. The docket reflects the date entered.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

IN RE: MICHAEL E. BRITTON
DEBTOR

CASE NO. 16-50502-KMS
CHAPTER 13

AGREED ORDER ON
MOTION FOR (1) RELIEF FROM THE AUTOMATIC STAY, AND
(2) ABANDONMENT OF PROPERTY OF THE ESTATE

This matter came before the Court on BankPlus's *Motion for (1) Relief from the Automatic Stay, and (2) Abandonment of Property of the Estate* (the "Motion," Dkt. # 119). The Court, being advised that BankPlus, the Debtor, and the Chapter 13 Trustee agree to the relief set forth herein, finds that the Motion should be granted as set forth herein.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Motion shall be, and it hereby is, granted as set forth herein.

IT IS, FURTHER, ORDERED AND ADJUDGED that, should the Debtor become more than 30 days delinquent in Chapter 13 Plan Payments to BankPlus, calculated from the first day of the first delinquent month, the automatic stay under 11 U.S.C. § 362 will automatically lift, terminate, and be annulled—without further Court order—with respect to BankPlus and the Real-Property Collateral, as the term Real-Property Collateral is defined in the Motion and described in the attached Exhibit "A," and the Real-Property Collateral will thereby be

16-50502-KMS Dkt 149 Filed 12/05/16 Entered 12/05/16 13:13:34 Page 2 of 4

automatically abandoned from the estate, so as to allow BankPlus to enforce its liens and interests in the Real-Property Collateral, and to exercise any and all of BankPlus's rights and/or remedies relating to the Real-Property Collateral, including but not necessarily limited to: (i) repossessing, foreclosing, or otherwise realizing upon the Real-Property Collateral; and (ii) taking any and all other actions consistent with repossession and/or foreclosure of the Real-Property Collateral to either maintain or liquidate the Real-Property Collateral.

IT IS, FURTHER, ORDERED AND ADJUDGED that: (i) the relief set forth herein shall be applicable to any later case filed by or against the Debtor under the bankruptcy code or upon the conversion of this case to any other Chapter under the bankruptcy code; (ii) the Motion is deemed to have been sufficient to afford reasonable notice of the relief requested herein and opportunity to be heard on same; (iii) the procedures described in paragraphs (1), (2), and (3) of Federal Rule of Bankruptcy Procedure 4001(d) shall not apply and this agreed order shall immediately become final and effective upon entry; (iv) the fourteen day stay of execution under F.R.B. 4001(a)(3) is hereby waived; and (v) this agreed order constitutes a final judgment as contemplated by the Federal Rules of Bankruptcy Procedure.

##END OF ORDER##

16-50502-KMS Dkt 149 Filed 12/05/16 Entered 12/05/16 13:13:34 Page 3 of 4

**PREPARED, AGREED TO, AND
SUBMITTED BY:**

/s/ William H. Leech
William H. Leech, MSB No. 1175
Sarah Beth Wilson, MSB No. 103650
Christopher H. Meredith, MSB No. 103656
Timothy J. Anzenberger, MSB No. 103854
COPELAND, COOK, TAYLOR & BUSH, P.A.
P.O. Box 6020
Ridgeland, MS 39158
Phone: (601) 856-7200
Fax: (601) 856-7626
bleech@cctb.com
sbwilson@cctb.com
cmereidith@cctb.com
tanzenberger@cctb.com
Counsel for BankPlus

AGREED TO BY:

/s/ Nicholas Grillo
David L. Lord
Nicholas Grillo
David L. Lord and Associates, P.A.
808 W. Pine Street
Hattiesburg, MS 39401
Phone: (601) 583-6132
Fax: (601) 582-5627
lordlawfirm2@bellsouth.net
Counsel to Debtor

/s/ Samuel J. Duncan
Samuel J. Duncan
P.O. Box 1951
Hattiesburg, MS 39403
Phone: (601) 270-1122
Fax: (601) 584-9451
sduncan@jcbell.net
Counsel to Chapter 13 Trustee J.C. Bell

EXHIBIT "A"PARCEL 1:

Instrument 201600332 Page 12 of 12
 Commencing at a lightwood knot found situated at the Southeast corner of Section 9, Township 7 North, Range 7 West in Wayne County, Mississippi; thence run North 89 degrees 10 minutes 02 seconds West for 410.31 feet to a cross tie found situated at a corner of a fence, being the POINT OF BEGINNING of the land to be described; thence run North 89 degrees 10 minutes 02 seconds West along a fence for 757.07 feet to an 8 inch round fence corner post found painted orange; thence run North 37 degrees 03 minutes 49 seconds West along an old web wire fence for 252.62 feet to a fence corner post found; thence North 51 degrees 46 minutes 26 seconds East along said fence for 260.78 feet to a grader blade found situated at a corner of said fence; thence North 41 degrees 12 minutes 49 seconds West along said fence for 288.73 feet to a 6 inch round fence corner post found; thence North 54 degrees 19 minutes 48 seconds East along said fence for 354.03 feet to a 7 inch round fence corner post found; thence South 31 degrees 47 minutes 50 seconds East along said fence for 471.07 feet to a fence corner post found; thence North 55 degrees 24 minutes 58 seconds East along said fence for 144.19 feet; thence North 50 degrees 55 minutes 29 seconds East along said fence for 38.61 feet to a fence corner post found; thence South 54 degrees 45 minutes 27 seconds East along said fence for 13.93 feet to a post found; thence South 62 degrees 45 minutes 39 seconds East along said fence for 181.56 feet to a post found; thence North 80 degrees 28 minutes 20 seconds East along said fence for 26.33 feet to a cross tie found situated at a corner of said fence; thence run South 02 degrees 28 minutes 21 seconds East along said fence for 116.76 feet to a post; thence South 01 degree 12 minutes 09 seconds East along said fence for 300.04 feet to the point of beginning, containing 10.43 acres, more or less.

PARCEL 2:

A parcel of land situated in the Town of Clara, Mississippi, according to the map or plat thereof on file in the Chancery Clerk's Office of Wayne County, Mississippi, more particularly described as:

Commencing at the Northeast corner of Lot 8, Block 1, Town of Clara, Mississippi; thence run South 53 degrees 00 minutes West for a distance of 210.0 feet along the Southeast right of way line of Clara School Road (Old Highway #63); thence run South 37 degrees 00 minutes East along Northeast line of Clara School property for a distance of 535.0 feet to a fence corner; thence run North 51 degrees 26 minutes East along a fence line between the Carter and Norman Trigg, Jr. property for a distance of 260.0 feet, more or less, to a fence corner; thence run North 42 degrees 49 minutes West along a fence line between the Carter and Trigg property for a distance of 289.0 feet to a point in the South line of Lot 7; thence run South 53 degrees 00 minutes West for a distance of 21.0 feet to the Southwest corner of Lot 7; thence run North 37 degrees 00 minutes West along Southwest line of the Campbell Estate for a distance of 240.38 feet to the Point of Beginning, containing 2.79 acres, more or less. Said lands also being situated in Section 9, Township 7 North, Range 7 West, Wayne County, Mississippi.

SIGNED HIS TRUE 26TH DAY OF JANUARY 2016
 FOR IDENTIFICATION

Michael E. Britton
 MICHAEL E. BRITTON

I CERTIFY THIS
 INSTRUMENT WAS
 FILED FOR RECORD

THIS IS A TRUE AND
 CORRECT COPY OF
 THE INSTRUMENT
 FILED FOR RECORD

9:31A 2 4 16
 201600332
 CLARA SCHOOL RD
 CLARA SCHOOL RD
 CLARA SCHOOL RD